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*Attorneys for Tecumseh–Infinity Medical  
 Receivable Fund, LP*

**IN THE UNITED STATES BANKRUPTCY COURT  
 FOR THE DISTRICT OF NEVADA**

In re:  
 INFINITY CAPITAL MANAGEMENT,  
 INC. *dba* INFINITY HEALTH  
 CONNECTIONS,  
 Debtor.

Case No. 21-14486-abl

Chapter 7

HASELECT-MEDICAL RECEIVABLES  
 LITIGATION FINANCE FUND  
 INTERNATIONAL SP,  
 Plaintiff,  
 v.  
 TECUMSEH–INFINITY MEDICAL  
 RECEIVABLES FUND, LP,  
 Defendant.

Adversary Case No. 21-01167-abl

**DECLARATION OF GABRIELLE A.  
 HAMM IN SUPPORT OF OPPOSITION  
 TO MOTION FOR PARTIAL  
 SUMMARY JUDGMENT AS TO  
 CERTAIN DISPUTED RECEIVABLES**

TECUMSEH–INFINITY MEDICAL  
 RECEIVABLES FUND, LP,  
 Counter-Claimant,  
 v.  
 HASELECT-MEDICAL RECEIVABLES  
 LITIGATION FINANCE FUND  
 INTERNATIONAL SP; ROBERT E.  
 ATKINSON, CHAPTER 7 TRUSTEE,  
 Counter-Defendants.

Date: May 26, 2022  
 Time: 9:30 a.m.

ROBERT E. ATKINSON, CHAPTER 7  
TRUSTEE,

Counter-Claimant,

v.

TECUMSEH-INFINITY MEDICAL  
RECEIVABLES FUND, LP,

Counter-Defendant.

I, GABRIELLE A. HAMM, hereby declare as follows pursuant to 28 U.S.C. § 1746:

1. I am an attorney licensed to practice law in the State of Nevada and am an attorney at the law firm of Garman Turner Gordon LLP, attorneys for Defendant and Counterclaimant Tecumseh–Infinity Medical Receivable Fund, LP (“**Tecumseh**”). I am competent to testify to the matters asserted herein, of which I have personal knowledge.

2. I make this Declaration in support of Tecumseh’s opposition (the “**Opposition**”)<sup>1</sup> to *Plaintiff HASelect-Medical Receivables Litigation Finance Fund International, SP’s Motion for Partial Summary Judgment as to Certain Disputed Receivables* [ECF No. 53] (the “**Motion**”) and pursuant to Rule 56(d) of the Federal Rules of Civil Procedure.

3. Tecumseh argues in its Opposition that HASelect’s Motion turns on a material and disputed question of fact: whether the Debtor purchased and then resold the Disputed Receivables to Tecumseh or acquired the Disputed Receivables on Tecumseh’s behalf and for its benefit. In its HASelect contends in its Motion that the former is true, arguing that “[e]ach of the Sold Accounts was purchased by Infinity using funds paid from its operating account at Nevada State Bank prior to the sale or assignment of any interest in such Sold Account to Tecumseh and prior to the receipt of payment from Tecumseh,”<sup>2</sup> *i.e.*, that Tecumseh purchased receivables that were property of the Debtor and subject to HASelect’s prior lien. Further, while HASelect contends that the Debtor sold the Disputed Receivables without HASelect’s knowledge or consent and in violation of the Debtor’s contractual obligations to HASelect,<sup>3</sup> there is evidence that HASelect consented to the

<sup>1</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Opposition.

<sup>2</sup> Motion, at ¶ 35.

<sup>3</sup> Motion, at ¶ 13.

1 sale of at least some of the Disputed Receivables in order to receive payment from the Debtor.  
 2 However, Tecumseh does not have the discovery necessary to respond to HASelect's factual  
 3 statements, including discovery regarding the dates of transactions with medical service providers  
 4 and discovery regarding HASelect's knowledge of Tecumseh's purchase of Disputed Receivables.

5 4. The bulk of discovery remains to be completed, with the discovery period not  
 6 ending until September 30, 2022.<sup>4</sup> No depositions have been taken and document discovery is  
 7 substantially incomplete. As between the parties, HASelect has not yet provided responses or  
 8 produced documents in response to Tecumseh's *First Request for Production of Documents to*  
 9 *HASelect-Medical Receivables Litigation Finance Fund International, SP*, served on March 29,  
 10 2022, and Tecumseh is continuing to gather and produce documents in response to the document  
 11 request propounded by HASelect.

12 5. With respect to third parties, multiple subpoenas to third parties pertaining to the  
 13 Debtor's accounting and financial records, internal receivables database, and email  
 14 correspondence remain outstanding in the Chapter 7 case, or, to the extent documents have been  
 15 produced to HASelect, they have not been produced to Tecumseh. These include subpoenas to the  
 16 following: (1) Xero Inc., the Debtor's accounting software company, for the Debtor's accounting  
 17 records;<sup>5</sup> (2) Tailor Made Servers, for information regarding the Debtor's data storage systems and  
 18 alteration or deletion of the debtor's electronically stored information;<sup>6</sup> (3) Nevada State Bank, for  
 19 the Debtor's banking records, which would include records of payments from Debtor's accounts  
 20 to the medical service providers;<sup>7</sup> (4) GPMicro, Inc., a non-debtor affiliate of the Debtor  
 21 purportedly in possession of the Debtor's emails;<sup>8</sup> and (5) individuals who provided IT services to  
 22 the Debtor, for information relating to the Debtor's records and electronically stored information.<sup>9</sup>

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 25 <sup>4</sup> ECF No. 49, at Page 7 of 10.

26 <sup>5</sup> Case No. 21-14486-abl, ECF No. 207.

27 <sup>6</sup> *Id.*, ECF No. 206.

28 <sup>7</sup> *Id.*, ECF No. 142.

<sup>8</sup> *Id.*, ECF No. 161.

<sup>9</sup> *Id.*, ECF No. 193 (subpoena to Robert Land) and ECF No. 204 (subpoena to Kevin Grimes).

6. No witnesses have been deposed in this case. While 2004 examinations of Oliver Hemmers and Anne Pantelas took place in November of 2021, prior to the filing of HASelect's First Amended Complaint [ECF No. 21],<sup>10</sup> HASelect's counsel objected to questioning directed to the claims or defenses at issue in this adversary proceeding on the basis of the pending proceeding rule. Thus, Tecumseh has not had the opportunity to question the Debtor's principals regarding the process for purchasing the Disputed Receivables, payment to the medical providers, communications with HASelect, or other matters relating to the claims and defenses in this case. Tecumseh also requires the deposition of HASelect's representative. However, I believe that depositions prior to the substantial completion of document discovery are premature.

7. In order to gather necessary facts to support the Opposition to HASelect's Motion, Tecumseh must be allowed to complete pending discovery, propound additional discovery, and take depositions regarding Debtor's process for identifying receivables, negotiating a purchase price, and processing the sales with respect to the subject transactions, Debtor's general accounting practices and its handling and accounting of Tecumseh's funds and the payments made to medical providers, communications between the Debtor and medical providers regarding the subject receivables and payment for the receivables, Debtor's records regarding the transactions, and communications between the Debtor and HASelect relative to HASelect's knowledge of and acquiescence to Tecumseh's purchases.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated April 29, 2022.

/s/ Gabrielle A. Hamm  
GABRIELLE A. HAMM

<sup>10</sup> The First Amended Complaint was filed on December 10, 2021. The Amended First Amended Complaint [ECF No. 24] was filed on December 31, 2021 to correct the caption due to a Notice of Docketing Error.